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E & R AMENDMENTS TO LB 37

1 1. Strike original section 12 and insert the following
2 new section:

3 "Sec. 12. Section 77-2716, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2716. (1) The following adjustments to federal
6 adjusted gross income or, for corporations and fiduciaries, federal
7 taxable income shall be made for interest or dividends received:

8 (a) There shall be subtracted interest or dividends
9 received by the owner of obligations of the United States and its
10 territories and possessions or of any authority, commission, or
11 instrumentality of the United States to the extent includable in
12 gross income for federal income tax purposes but exempt from state
13 income taxes under the laws of the United States;

14 (b) There shall be subtracted that portion of the total
15 dividends and other income received from a regulated investment
16 company which is attributable to obligations described in
17 subdivision (a) of this subsection as reported to the recipient by
18 the regulated investment company;

19 (c) There shall be added interest or dividends received
20 by the owner of obligations of the District of Columbia, other
21 states of the United States, or their political subdivisions,
22 authorities, commissions, or instrumentalities to the extent
23 excluded in the computation of gross income for federal income tax
24 purposes except that such interest or dividends shall not be added

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1 if received by a corporation which is a regulated investment
2 company;

3 (d) There shall be added that portion of the total
4 dividends and other income received from a regulated investment
5 company which is attributable to obligations described in
6 subdivision (c) of this subsection and excluded for federal income
7 tax purposes as reported to the recipient by the regulated
8 investment company; and

9 (e) (i) Any amount subtracted under this subsection shall
10 be reduced by any interest on indebtedness incurred to carry the
11 obligations or securities described in this subsection or the
12 investment in the regulated investment company and by any expenses
13 incurred in the production of interest or dividend income described
14 in this subsection to the extent that such expenses, including
15 amortizable bond premiums, are deductible in determining federal
16 taxable income.

17 (ii) Any amount added under this subsection shall be
18 reduced by any expenses incurred in the production of such income
19 to the extent disallowed in the computation of federal taxable
20 income.

21 (2) There shall be allowed a net operating loss derived
22 from or connected with Nebraska sources computed under rules and
23 regulations adopted and promulgated by the Tax Commissioner
24 consistent, to the extent possible under the Nebraska Revenue Act
25 of 1967, with the laws of the United States. For a resident
26 individual, estate, or trust, the net operating loss computed on
27 the federal income tax return shall be adjusted by the

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1 modifications contained in this section. For a nonresident
2 individual, estate, or trust or for a partial-year resident
3 individual, the net operating loss computed on the federal return
4 shall be adjusted by the modifications contained in this section
5 and any carryovers or carrybacks shall be limited to the portion of
6 the loss derived from or connected with Nebraska sources.

7 (3) There shall be subtracted from federal adjusted gross
8 income for all taxable years beginning on or after January 1, 1987,
9 the amount of any state income tax refund to the extent such refund
10 was deducted under the Internal Revenue Code, was not allowed in
11 the computation of the tax due under the Nebraska Revenue Act of
12 1967, and is included in federal adjusted gross income.

13 (4) Federal adjusted gross income, or, for a fiduciary,
14 federal taxable income shall be modified to exclude the portion of
15 the income or loss received from a small business corporation with
16 an election in effect under subchapter S of the Internal Revenue
17 Code or from a limited liability company organized pursuant to the
18 Limited Liability Company Act that is not derived from or connected
19 with Nebraska sources as determined in section 77-2734.01.

20 (5) There shall be subtracted from federal adjusted gross
21 income or, for corporations and fiduciaries, federal taxable income
22 dividends received or deemed to be received from corporations which
23 are not subject to the Internal Revenue Code.

24 (6) There shall be subtracted from federal taxable income
25 a portion of the income earned by a corporation subject to the
26 Internal Revenue Code of 1986 that is actually taxed by a foreign
27 country or one of its political subdivisions at a rate in excess of

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1 the maximum federal tax rate for corporations. The taxpayer may
2 make the computation for each foreign country or for groups of
3 foreign countries. The portion of the taxes that may be deducted
4 shall be computed in the following manner:

5 (a) The amount of federal taxable income from operations
6 within a foreign taxing jurisdiction shall be reduced by the amount
7 of taxes actually paid to the foreign jurisdiction that are not
8 deductible solely because the foreign tax credit was elected on the
9 federal income tax return;

10 (b) The amount of after-tax income shall be divided by
11 one minus the maximum tax rate for corporations in the Internal
12 Revenue Code; and

13 (c) The result of the calculation in subdivision (b) of
14 this subsection shall be subtracted from the amount of federal
15 taxable income used in subdivision (a) of this subsection. The
16 result of such calculation, if greater than zero, shall be
17 subtracted from federal taxable income.

18 (7) Federal adjusted gross income shall be modified to
19 exclude any amount repaid by the taxpayer for which a reduction in
20 federal tax is allowed under section 1341(a)(5) of the Internal
21 Revenue Code.

22 (8)(a) There shall be subtracted from federal adjusted
23 gross income an amount equal to the difference between the amount
24 qualified for calculation of a deduction as provided in section
25 162(1) of the Internal Revenue Code and the amount actually allowed
26 pursuant to section 162(1)(1) of the Internal Revenue Code.

27 (b) For an individual who itemized deductions on his or

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1 her federal return, the maximum amount subtracted under subdivision
2 (8)(a) of this section shall be seven and one-half percent of
3 federal adjusted gross income.

4 (9)(a) Federal adjusted gross income or, for corporations
5 and fiduciaries, federal taxable income shall be reduced, to the
6 extent included, by income from interest, earnings, and state
7 contributions received from the Nebraska educational savings plan
8 trust created in sections 85-1801 to 85-1814.

9 (b) Federal adjusted gross income or, for corporations
10 and fiduciaries, federal taxable income shall be reduced, to the
11 extent not deducted for federal income tax purposes, by the amount
12 of any gift, grant, or donation made to the Nebraska educational
13 savings plan trust for deposit in the endowment fund of the trust.

14 (c) Federal adjusted gross income or, for corporations
15 and fiduciaries, federal taxable income shall be reduced by any
16 contributions as a participant in the Nebraska educational savings
17 plan trust, not to exceed five hundred dollars per married filing
18 separate return or one thousand dollars for any other return.

19 (d) Federal adjusted gross income or, for corporations
20 and fiduciaries, federal taxable income shall be increased by the
21 amount resulting from the cancellation of a participation agreement
22 refunded to the taxpayer as a participant in the Nebraska
23 educational savings plan trust to the extent previously deducted as
24 a contribution to the trust.

25 (10)(a) For income tax returns filed after September 10,
26 2001, federal adjusted gross income or, for corporations and
27 fiduciaries, federal taxable income shall be increased by

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1 eighty-five percent of any amount of any federal bonus depreciation
2 received under the federal Job Creation and Worker Assistance Act
3 of 2002 or the federal Jobs and Growth Tax Act of 2003, under
4 section 168(k) or section 1400L of the Internal Revenue Code of
5 1986, as amended, for assets placed in service after September 10,
6 2001, and before December 31, 2005.

7 (b) For a partnership, limited liability company,
8 cooperative, including any cooperative exempt from income taxes
9 under section 521 of the Internal Revenue Code of 1986, as amended,
10 subchapter S corporation, or joint venture, the increase shall be
11 distributed to the partners, members, shareholders, patrons, or
12 beneficiaries in the same manner as income is distributed for use
13 against their income tax liabilities.

14 (c) For a corporation with a unitary business having
15 activity both inside and outside the state, the increase shall be
16 apportioned to Nebraska in the same manner as income is apportioned
17 to the state by section 77-2734.05.

18 (d) The amount of bonus depreciation added to federal
19 adjusted gross income or, for corporations and fiduciaries, federal
20 taxable income by this subsection shall be subtracted in a later
21 taxable year. Twenty percent of the total amount of bonus
22 depreciation added back by this subsection for tax years beginning
23 or deemed to begin before January 1, 2003, under the Internal
24 Revenue Code of 1986, as amended, may be subtracted in the first
25 taxable year beginning or deemed to begin on or after January 1,
26 2005, under the Internal Revenue Code of 1986, as amended, and
27 twenty percent in each of the next four following taxable years.

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1 Twenty percent of the total amount of bonus depreciation added back
2 by this subsection for tax years beginning or deemed to begin on or
3 after January 1, 2003, may be subtracted in the first taxable year
4 beginning or deemed to begin on or after January 1, 2006, under the
5 Internal Revenue Code of 1986, as amended, and twenty percent in
6 each of the next four following taxable years.

7 (11) For taxable years beginning or deemed to begin on or
8 after January 1, 2003, under the Internal Revenue Code of 1986, as
9 amended, federal adjusted gross income or, for corporations and
10 fiduciaries, federal taxable income shall be increased by the
11 amount of any capital investment that is expensed under section 179
12 of the Internal Revenue Code of 1986, as amended, that is in excess
13 of twenty-five thousand dollars that is allowed under the federal
14 Jobs and Growth Tax Act of 2003. Twenty percent of the total
15 amount of expensing added back by this subsection for tax years
16 beginning or deemed to begin on or after January 1, 2003, may be
17 subtracted in the first taxable year beginning or deemed to begin
18 on or after January 1, 2006, under the Internal Revenue Code of
19 1986, as amended, and twenty percent in each of the next four
20 following tax years.

21 (12) (a) Federal adjusted gross income or, for
22 corporations and fiduciaries, federal taxable income shall be
23 reduced by any contributions as a participant in the Nebraska wage
24 replacement savings plan trust, not to exceed five hundred dollars
25 per married filing separate return or one thousand dollars for any
26 other return.

27 (b) Federal adjusted gross income or, for corporations

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1 and fiduciaries, federal taxable income shall be increased by the
2 amount resulting from the cancellation of a participation agreement
3 refunded to the taxpayer as a participant in the Nebraska wage
4 replacement savings plan trust to the extent previously deducted as
5 a contribution to the trust.".

6 2. On page 1, lines 1 and 2; and page 12, lines 15 and
7 16, strike "Revised Statutes Supplement, 2002" and insert "Reissue
8 Revised Statutes of Nebraska".